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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **OAKLAND DIVISION**

12 EOLAS TECHNOLOGIES
13 INCORPORATED,

14 Plaintiff,

15 v.

16 AMAZON.COM, INC.,

17 Defendant.
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Case No. 4:17-cv-03022-JST

Related to Case Nos. 4:17-cv-01138-JST,
4:17-cv-03023-JST, and 4:15-cv-05446-JST

**DECLARATION OF RICHARD G.
FRENKEL IN SUPPORT OF
DEFENDANTS' ADMINISTRATIVE
MOTION TO FILE A CONSOLIDATED
MOTION FOR SUMMARY JUDGMENT
ON BEHALF OF ALL THREE
DEFENDANTS THAT MODIFIES THE
PAGE LIMIT FOR A SINGLE-
DEFENDANT MOTION BY TWENTY-
FIVE PAGES**

1 I, Richard G. Frenkel, declare as follows:

2 1. I am an active member of the State Bar of California, a member in good standing
3 of the Bar of this Court, a partner at Latham & Watkins LLP, and counsel for Defendant
4 Amazon.com, Inc. ("Amazon") in the above-titled action. I make this declaration in support of
5 Defendants' Administrative Motion for Leave to File a Consolidated Motion for Summary
6 Judgment on Behalf of All Three Defendants that Modifies the Page Limit for a Single-Defendant
7 Motion by Twenty-Five Pages. I have personal, first-hand knowledge of the matters set forth
8 below and, if called as a witness, I could and would testify competently thereto.

9 2. On February 8, 2022, I sent an email on behalf of all Defendants seeking consent
10 from plaintiff Eolas for Defendants to file a single, consolidated brief in support of a motion for
11 summary judgment of no more than 50 pages, with Eolas's consolidated opposition similarly
12 limited to 50 pages, and with Defendants' consolidated reply brief limited to 30 pages.

13 3. On February 10, 2022, counsel for Eolas responded that they would oppose a
14 consolidated, 50-page motion and indicated they expected Defendants to collaborate to file a
15 single, 25-page motion to cover all three cases. Eolas contended that Defendants previously told
16 Eolas it would be filing a single, 25-page motion.

17 4. I responded immediately after receiving Eolas's email. In my response, I told Eolas
18 that its contention is based on a misreading of Defendant Google's email to Eolas when seeking
19 Eolas's position on the summary judgment schedule. I explained that Defendants stated, consistent
20 with our current position, that the parties are permitted one MSJ *per side* and it is important for
21 the Defendants to coordinate the issues presented to the Court. I indicated that unless Eolas
22 responded and agreed to stipulate to Defendants' requested relief, Defendants would need to file a
23 motion to clarify the issue. Eolas's counsel did not respond.

24 I declare under penalty of perjury that the foregoing is true and correct, executed this day
25 in Menlo Park, California.

26 Executed on February 11, 2022

/s/ Richard G. Frenkel

27 Richard G. Frenkel